

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ARMONI MASUD JOHNSON,

Plaintiff

v.

SGT. BIENKOSKI, et al.,

Defendants

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: 3:18-CV-592  
: (JUDGE MARIANI)  
:  
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ORDER

AND NOW, THIS 16th DAY OF FEBRUARY, 2020, upon *de novo* review of Magistrate Judge Carlson's Report & Recommendation ("R&R") (Doc. 19), Plaintiff's Objections thereto (Docs. 20, 21, 22, 24), and all other relevant documents, **IT IS HEREBY ORDERED THAT:**

1. The R&R (Doc. 19) is **ADOPTED** for the reasons stated therein.
2. Plaintiff's Objections are **OVERRULED**. To the extent that Plaintiff's first Objection asserts that Magistrate Judge Carlson's factual and legal analyses set forth in the R&R consist of fraudulent statements, this unsupported assertion is without any merit. Nor is the Magistrate Judge's direction that Plaintiff's complaint must comply with Fed.R.Civ.P. 8 "in conflict" with the R&R's statement that a complaint should recite factual allegations which are sufficient to raise the plaintiff's claimed right to relief beyond the level of mere speculation. (See Pl.'s Obj., Doc. 21, at 1-2). With respect to Plaintiff's other Objections, Plaintiff should recognize that

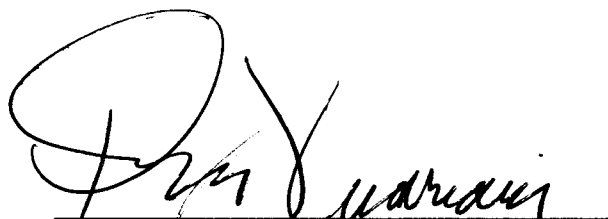
neither the Magistrate Judge nor this Court has made a determination that he does not have any meritorious claim. Rather, Plaintiff is being granted leave to amend his Complaint because he may have one or more viable causes of action, but at this time the Amended Complaint “[i]n its current confused form . . . would leave both the court and the defendants having to guess what of the many things discussed constituted a cause of action,” (Doc. 19, at 11)(internal quotation marks and brackets omitted). Finally, the Court emphasizes to Plaintiff that at this stage of the proceedings he does not have to “prove all essential elements of claims to avoid dismissal” as he asserts (Doc. 22, at 2). Rather, Plaintiff must file a Complaint which sets forth factual allegations which are sufficient to raise his claimed right to relief beyond the level of mere speculation and which includes “separately numbered paragraphs describing the date and time of the events alleged, and identifying wherever possible the participants in the acts about which the plaintiff complains” (Doc. 19, at 14).

3. Plaintiff’s Amended Complaint (Doc. 18) is **DISMISSED WITHOUT PREJUDICE**. Plaintiff shall file a Second Amended Complaint within **20 days of the date of this Order**.<sup>1</sup> Failure to file a Second Amended Complaint may result in dismissal of this action.

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<sup>1</sup> The Court strongly advises Plaintiff to follow the guidance provided by Magistrate Judge Carlson in the R&R instructing Plaintiff about the necessary structure and contents of a Complaint. (See Doc. 19, at 13-14).

4. The case is **REMANDED** to Magistrate Judge Carlson for further proceedings consistent with this Order.



Robert D. Mariani  
United States District Judge